

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.1518 OF 2002

Shri.Vijay P. Patil ..Petitioner.

Vs.

The General Secretary

Padmabhushan Vasant Dada

Patil Pratishthan & Ors. ..Respondents.

...

Mr.P.N.Shastrri for the Petitioner.

Mr.Piyush Shah for Respondent Nos.1 and 2.

...

CORAM : DR.D.Y.CHANDRACHUD, J.

12th April, 2005.

P.C. :

1. The Petitioner joined the College of Engineering that is conducted by the First and Second Respondents on 1st October, 1993 as a lecturer in Physics. According to the Petitioner, he was informed on 16th August, 2000 by the Principal of the college that his services would

stand dispensed with, with effect from 1st September, 2000. However, according to the Petitioner, he continued to take lectures until 8th November, 2000. The Petitioner moved the College Tribunal in an appeal under the Maharashtra Universities Act, 1994. The Presiding Officer of the Tribunal held that it is undisputed that the Petitioner was never recommended as lecturer by a duly constituted selection committee. The appointment of the Petitioner was never approved by the University. In the circumstances, it was held that the Petitioner could not have any right to seek continuance in the post of lecturer. On 12th August, 2000 interviews were in fact held by the duly constituted selection committee for which an advertisement was issued in the newspapers and the Petitioner had appeared at that selection. The selection committee recommended two candidates and the Petitioner was not selected. In these circumstances, the order of the University Tribunal does not call for interference. It appears that at the interim stage, an order was passed by the Tribunal allowing the Petitioner to continue in service as a lecturer in Physics until the duly selected candidate joined service or until a

candidate belonging to a reserved category joined service after selection by the selection committee. The Tribunal has noted that since there was an inadequate work load, the Petitioner was offered an engagement on a clock hour basis which he refused to accept.

2. The appointment of the Petitioner was not a regular appointment in accordance with the statutes of the University. Eventually, the Petitioner applied for selection before the selection committee. He was not selected. The grant of permanency, therefore, cannot be directed to be conferred on the Petitioner. However, there is merit in the grievance of the Petitioner that he should be granted all his arrears of pay for the period during which he worked in accordance with the recommendations of the 5th Pay Commission with effect from the date on which these have been directed to be implemented by the University of Mumbai in respect of its affiliated colleges. The First and Second Respondents are accordingly directed to compute and pay to the Petitioner all the arrears of pay to which the Petitioner is entitled under the recommendations of the 5th Pay

Commission for such period prior to the termination of the Petitioner for which he may be eligible in pursuance of the directions of the University. The aforesaid payment shall be made to the Petitioner within a period of four weeks from today. The Petition is accordingly disposed of.